

Western Marine Electronics, Inc. and International Association of Machinists and Aerospace Workers, Local Lodge No. 79, AFL-CIO. Cases 19-CA-12170 and 19-CA-12221

July 29, 1981

DECISION AND ORDER

On December 12, 1980, Administrative Law Judge Richard D. Taplitz issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and the General Counsel filed a brief in support of the Administrative Law Judge's Decision.

The Board has considered the record and the attached Decision in light of the exceptions and brief and has decided to affirm the rulings, findings,¹ and conclusions of the Administrative Law Judge and to adopt his recommended Order.²

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Western Marine Electronics, Inc., Seattle, Washington, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended

¹ The Administrative Law Judge's Decision contains some apparently inadvertent or inconsistent statements which do not, however, affect the results herein. First, the Administrative Law Judge at fn. 9 of his Decision based a finding that Supervisor Thom told employee Jarvis that, if Blakey found out that it was true that Jarvis was involved in organizing meetings, Jarvis would be fired, on the credited testimony of Jarvis. The Administrative Law Judge notes Thom denied that he told people that they would be fired, but concludes, in the last sentence of that footnote, that while Thom on his own behalf may have told anyone that that person would be fired, he credited Jarvis that Thom did in effect pass on the information that he had received from Blakey to Jarvis. It is apparent from the context of that footnote that the word "not" was inadvertently omitted from the statement "While Thom, on his own behalf, may [not] have told anyone that that person would be fired" Second, the Administrative Law Judge in the first full paragraph of the section entitled "4. The Alleged Surveillance" refers to a December 20 meeting, when it is likewise apparent that he in fact means the March 20 meeting otherwise discussed in that section. Finally, in the last paragraph of the section entitled "1. The Interrogation and Threats" in the Administrative Law Judge's Analysis and Conclusions, he states that Blakey had threatened to fire Jarvis if Jarvis engaged in union activity and that that threat was passed on to Jarvis by Supervisor Blakey. Based on the facts as found by the Administrative Law Judge, it is apparent that Blakey's threat was passed on to Jarvis by Supervisor Thom.

Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enf'd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings.

² The Administrative Law Judge failed to include the appropriate reinstatement language in his recommended notice. Accordingly, we hereby modify the notice to conform with the recommended Order.

Member Jenkins would compute interest on Respondent's backpay obligation in accordance with his partial dissent in *Olympic Medical Corporation*, 250 NLRB 146 (1980).

Order, except that the attached notice is substituted for that of the Administrative Law Judge.

APPENDIX

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

WE WILL NOT discharge or otherwise discriminate against any employee for engaging in activity on behalf of International Association of Machinists and Aerospace Workers, Local Lodge No. 79, AFL-CIO.

WE WILL NOT coercively interrogate any employee about union activities.

WE WILL NOT threaten any employee with discharge because of his union activity.

WE WILL NOT engage in surveillance of the union activities of any of our employees.

WE WILL NOT transfer any employee to a less desirable job because he processes a grievance.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them in Section 7 of the Act.

WE WILL offer John Daughters immediate and full reinstatement to his former job in the machine shop or, if that job no longer exists, to a substantially equivalent job, without prejudice to his seniority or other rights and privileges previously enjoyed, and make him whole with interest.

WE WILL offer Bruce Jarvis immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent job, without prejudice to his seniority or other rights and privileges previously enjoyed, and make him whole with interest.

**WESTERN MARINE ELECTRONICS,
INC.**

DECISION

STATEMENT OF THE CASE

RICHARD D. TAPLITZ, Administrative Law Judge: This case was heard on August 26, 1980, at Seattle, Washington. The charges in Cases 19-CA-12170 and 19-CA-12221 were filed respectively on March 7 and March 29, 1980, by International Association of Machinists and Aerospace Workers, Local Lodge No. 9, AFL-CIO, herein called the Union. The complaint, which issued on April 28, 1980, alleges that Western Marine Electronics, Inc., herein called the Company, violated Section 8(a)(1) and (3) of the National Labor Relations

Act, as amended. The Company, through its attorneys, Perkins, Coie, Stone, Olson, and Williams, filed an answer to the complaint dated April 30, 1980, admitting some of the allegations of the complaint and denying others.¹

Issues

The primary issues are:

1. Whether the Company through its agents violated Section 8(a)(1) of the Act by threatening and interrogating employees concerning their union activity, by engaging in surveillance of union activities, and by transferring John Daughters to a less desirable job because he processed a grievance.

2. Whether the Company violated Section 8(a)(3) and (1) of the Act by discharging John Daughters and Bruce Jarvis because they engaged in union activity.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Though given timely notice of the hearing, the Company did not appear or participate at the hearing. No briefs were filed.

Upon the entire record of the case and from my observation of the witnesses and their demeanor, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Washington corporation with an office and place of business in Seattle, Washington, is engaged in the business of manufacturing industrial electrical controls and marine electronic equipment. During the 12 months immediately preceding issuance of the complaint the Company had gross sales of goods and services valued in excess of \$500,000. During the same period of time the Company sold and shipped goods or provided services from its facilities within Washington to customers outside Washington, or sold and shipped goods or provided services to customers within Washington, which customers were themselves engaged in interstate commerce by other than indirect means, of a total value of in excess of \$50,000. The complaint alleges, the answer admits, and I find that the Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The complaint alleges, the answer admits, and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Sequence of Events*

1. Background

Sometime prior to 1974 the Union had contractual relations with a small machine shop firm known as A.O.G. The Respondent, Western Marine Electronics, builds marine electronic equipment including a line of sonar for commercial fishing. Western Marine Electronics purchased A.O.G. and A.O.G. ceased to exist except as a division of Western Marine Electronics. The machine shop operation was then performed on Western Marine Electronics premises. Two or three employees were employed in that machine shop operation. In 1974 the Company entered into a collective-bargaining agreement with the Union which covered those employees. In 1977 the Company refused to enter into a new contract on the ground that A.O.G. no longer existed. After a strike and various NLRB proceedings a contract was entered into between the Union and A.O.G. Manufacturing, Division of Western Marine Electronics Company. That contract, which was executed on April 27, 1978, was effective by its terms from April 1, 1977, until April 1, 1980. It covered various classifications of employees as specified in an appendix to that contract. All of the classifications related to the machine shop operation. The Company has about 3 employees in the machine shop operation and about 50 production employees in other aspects of its operation.

2. The Daughters grievance and his transfer

John Daughters was employed by the Company from late October 1979 until he was discharged on February 27, 1980. Though he did not have prior experience as a machine operator he worked in the Company's machine shop operating various machines. While he was working he took machinist's courses at Seattle Central Community College two evenings a week. His supervisor, Kurt Corraline,² encouraged him to take the courses and told him that they would go well with the type of work he was doing. When Daughters had been working for 90 days, Corraline gave him a written evaluation dated January 24, 1980. The overall evaluation was "definitely above average." Corraline wrote on the evaluation:

John's interest in machine work combined with his mechanical abilities and on-the-job training have brought him to a skill level that is above average based upon his experience and time on the job. Repetitive operations are mastered in a very short time and machine set-ups can normally be handled by John after he has been shown only once how to do them. John has taken it upon himself to attend Mach. Shop Tech. classes which will without a doubt enable him to perform additional skilled work as he learns techniques for doing so.

¹ On August 19, 1980, that law firm notified the Regional Director for Region 19 that it was withdrawing as representative of the Company.

² Corraline was vice president in charge of operations and an admitted supervisor.

During the evaluation interview Corraline asked Daughters whether he would be interested in operating a plastics machine. That involved fairly skilled work. Daughters said that he preferred to stay where he was and Corraline said that it was fine and he could stay in the machine shop.

Shortly after he began work Daughters learned from the other two employees in the machine shop, Ken Winpress and Richard Szadowski, that the machine shop was covered by a union contract. He was being paid less than any scale set forth in the contract and was not receiving contract benefits, but he decided not to take any action during the first 90 days because the Company had a probationary period.

Shortly after the 90-day probationary period ended Daughters went to the union office and spoke to the Union's directing business representative, Ed Bernosky. He told Bernosky the type of work he was doing and said that he felt he was covered by the contract in a specialist classification. Bernosky agreed with him and suggested that he file a grievance. He did file a grievance and the same day he joined the Union.

By letter dated February 1, 1980, Bernosky notified the Company that Daughters was not receiving the correct rate of pay under the contract and was not receiving the proper welfare benefits. The letter requested that a grievance meeting be scheduled. On February 12, 1980, Corraline wrote to Bernosky saying that Daughters was performing traditional Western Marine Electronics work and was not part of the traditional machinists bargaining unit. After a further exchange of correspondence a grievance meeting was scheduled for February 19, 1980.

About February 12, 1980, the Company's president, Bruce Blakey,³ approached Daughters on the shop floor. Blakey asked Daughters when he joined the Union and Daughters replied that it was 2 weeks before. Blakey said that it was the Company's position that Daughters was doing traditional Western Marine Electronics work and that they did not see the need for a grievance. Daughters replied that he thought he was covered by the contract and that he intended to follow through on the grievance procedure.

The grievance meeting was held on February 19, 1980, in the Company's office area. The Company was represented by Blakey and Corraline. The Union was represented by Bernosky. Daughters as well as machine shop employees Winpress and Szadowski were also there. They discussed the grievance, with Bernosky taking the position that Daughters should be getting the proper wage scale and benefits under the contract and Blakey taking the position that Daughters was doing traditional Western Marine Electronics work which was not covered by the contract. Bernosky pointed out that Daughters was running the machines and helping with the set-ups. Blakey asked whether it would satisfy the grievance if he took Daughters out of the machine shop and Bernosky responded that it would not and that they were going to continue to process the grievance. Blakey then

said that the Company was going to take Daughters out of the machine shop.

On February 20, 1980, Daughters reported for work at the machine shop as usual at 8 o'clock. A few minutes after that Corraline told him that because of the grievance meeting he was being taken off the machines. Corraline assigned him to the paint area where there were about 500 sonar cases stacked up. Corraline told Daughters to sand the cases and prepare them for painting. From then to the date of his discharge Daughters sanded the sonar cases. He was paid the same rate of pay but it was a very dusty job and was much more monotonous than the machine shop work.

At the conclusion of the February 19 grievance meeting Bernosky indicated that he wanted to go to the machine shop to talk to the people there. Blakey said that the Company was involved in some highly technical electronic work and that he did not want strangers walking around. Blakey said that if Bernosky wanted to chat with his members he could do so upstairs in the lobby. Bernosky then went to the lobby where he spoke to the employees. That was the first time the Company ever prevented Bernosky from visiting the machine shop. Over the past years Bernosky visited the machine shop about once every 3 months. When the Company was at its original location Bernosky used to go directly into the machine shop. After the Company moved, Bernosky used to check into the office and tell them that he was going to the machine shop and then go there. There never had been any objection to his visiting the machine shop. Many nonemployees are permitted to visit the machine shop. About once a week groups of businessmen and customers are taken on a tour of the plant which includes a visit to the machine shop. During the Fish Exposition during the winter there are tours several times a day for a period of a week or two. The tours are generally led by management people.

On February 22, 1980, Bernosky wrote to Corraline asking for a step-three grievance meeting or for arbitration on the grievance. On February 27, 1980, Daughters was discharged.

3. The discharge of Daughters and Jarvis and the alleged coercive remarks

After Daughters filed his grievance and joined the Union he spoke to a number of employees in the non-union sector of the plant about joining the Union. On about February 14, 1980, Daughters, and another employee, Joe Schindler, met with union organizer Bill Patrick at the union office. They spoke about organizing the nonunion sector of the Company. Patrick suggested that there be 8 or 10 people on an in-plant organizing committee. He gave Daughters and Schindler authorization cards for them to use in recruiting other people. They scheduled a union meeting for February 21, 1980, in Daughters' home. Before the February 21 meeting Daughters spoke to at least six employees and some of them signed authorization cards. He invited them all to

³ The answer admits and I find that Blakey is a supervisor within the meaning of the Act.

the February 21 meeting at his house. Bruce Jarvis⁴ was one of the employees who signed a union card and agreed to attend the first meeting at Daughters' house.

On February 21, 1980, Daughters, Jarvis, and several other employees met with union organizer Patrick at Daughters' home. They discussed the organization of the plant and Patrick gave them all authorization cards to distribute. They also agreed to meet weekly at Daughters' home. Thereafter Daughters and Jarvis passed out cards during lunch breaks and after work.

Sometime after the union activity began Company President Blakey told Supervisor Dan Thom⁵ that he (Blakey) wanted to fire Jarvis because he felt that Jarvis was involved in the union organizing. Thom replied that he did not think that Jarvis was involved.⁶

About the same date Thom was at a prayer meeting which was attended by company employee Jones. Jones spoke about union organizing and Thom asked him who was doing it. Jones replied that Joe Schindler was trying to get people signed up for the Union.⁷ On or about February 25, 1980, Schindler and Jarvis were in the glue room when Supervisor Thom asked Schindler to step outside and talk to him. Thom told Schindler that Jones had said that he (Schindler) was trying to get people signed up for the Union and he asked Schindler whether it was true.⁸

On or about February 26 Thom had a conversation with Jarvis and Schindler in the glue room. Thom asked Schindler who was passing out authorization cards. Schindler did not tell him.

On February 27, 1980, Blakey discharged Daughters. Blakey escorted him to his office, told him that he did not need a painter and that he was letting him go. Daughters asked whether he would be given a letter for unemployment purposes saying that he had been laid off and Blakey replied that they did not give such letters. The usual payday is a Friday and Daughters was discharged on Wednesday. At the time of his discharge he was given a final check which paid him for some time beyond that Wednesday. At the time of the layoff Daughters was about halfway finished with the pile of sonar cases that he had been assigned to work on. In addition there was a backlog of cases in the storage room.

⁴ Jarvis was employed by the Company in its glue room from January 1979 until his discharge on about March 3, 1980. He prepared elements for fabrication. It took about 6 months to learn that work. He received evaluations at the end of 60 days, 6 months, and 1 year and nothing adverse was said about him on any of his evaluations. His starting pay was \$3.20 an hour and he received a number of increases to \$4.55 an hour. At the 1-year evaluation on February 7, 1980, he was given an overall evaluation of "outstanding."

⁵ The answer admits and I find that Thom was a supervisor within the meaning of the Act.

⁶ This finding is based on the uncontradicted testimony of Thom who was subpoenaed as a witness for the General Counsel.

⁷ These findings are also based on the credited testimony of Thom. Patrick, Daughters, and Jarvis testified that Jones reported to them at a subsequent union meeting that he had informed supervisors during that prayer meeting of other union activities. I have not relied on that hearsay evidence.

⁸ This finding is also based on the credited testimony of Thom. Jarvis testified that Schindler came back into the room and reported to him certain remarks made by Thom. I have not relied on that hearsay testimony.

Union organizer Patrick held another meeting at Daughters' home on February 28, 1980. Daughters, Jarvis, and other employees attended that meeting.

On March 3, 1980, Supervisor Thom spoke to Jarvis and Schindler in the glue room. Thom said that Blakey had heard that Jarvis was involved in organizing meetings and he asked Jarvis whether it was true. Jarvis said that they should not discuss it. Thom then said that if Blakey found out that it was true Jarvis would be fired.⁹

Later, on March 3, Jarvis was told to get his stuff and to report to Blakey's office. Blakey accused Jarvis of writing graffiti about him in the men's room and of writing obscenities on a copy of a bonus plan.¹⁰ Jarvis denied the accusation.¹¹ Blakey then said that they had found a falsification on Jarvis' employment application, that he was terminated, and that they would mail him his check.¹² Jarvis was not shown the actual employment application that he was accused of falsifying.

4. The alleged surveillance

On March 12, 1980, union organizer Patrick met with Daughters, Jarvis, and other employees at the Bow Tie Tavern. At that meeting they decided that Daughters and Jarvis would pass out handbills outside the Company's premises and that they would have another meeting at Daughters' home on March 20, 1980. It was also decided at that meeting that Patrick and Jarvis would wait in a parking lot outside of the restaurant known as Dag's to give employees rides to the December 20 meeting. Dag's is adjacent to the Company's property. Jarvis told a number of employees about the availability of the ride.

On March 17, 1980, at about 4:30 p.m. Daughters and Jarvis distributed union handbills to employees outside the company plant. They told employees about the scheduled meeting for March 20 and also told them about the availability of a ride at Dag's. While they were handbilling, Blakey came out of the plant, stood in the middle of the door, called them creeps, told them to shove off, and threatened to call the police. Two people stood next to Blakey with notepads and pencils. Daughters said that they had the right to be there because it was a public sidewalk. Daughters and Jarvis continued in their effort to distribute handbills, but Blakey stood there and the employees refused to take the handbills. Daughters and Jarvis again distributed handbills on March 19.

⁹ This finding is based on the credited testimony of Jarvis. Thom in his testimony denied that he told people that they would be fired. However, he acknowledged that the president of the Company, Blakey, told him that he (Blakey) wanted to fire Jarvis because he felt that Jarvis was involved in the union organizing. While Thom, on his own behalf, may have told anyone that that person would be fired, I credit Jarvis and find that Thom did in effect pass on the information that he had received from Blakey to Jarvis.

¹⁰ Shortly before, the Company had instituted certain production goals. At that time Blakey had a broken leg and walked in a cast with the help of crutches. The graffiti referred to said, "My goal is to break Bruce Blakey's other leg." The writing on the bottom of the copy of the bonus plan said, "F—the bonus plan."

¹¹ Jarvis credibly testified that he did not write any graffiti.

¹² Jarvis credibly testified that he was not aware of any falsification on his application though it was possible that he had inadvertently made minor mistakes with regard to exact dates of certain prior employment.

Once again they informed employees about the scheduled meeting and the availability of a ride at Dag's.

At or about 4:15 p.m. on March 20, 1980, Patrick and Jarvis were sitting at a table in Dag's waiting for employees to give them a ride to Daughters' house. Employee Schindler had agreed to meet them there. They saw Schindler approach Dag's in the parking lot and then walk away. Jarvis went outside and asked Schindler what was going on. Schindler said that he did not want to lose his job and when Jarvis asked him what he meant Schindler pointed over his shoulder at Blakey, who was walking into Dag's parking lot. Schindler told Jarvis to keep going and that he would call him later. Jarvis then went back into Dag's and sat next to Patrick. Blakey came into Dag's and stood there for about 30 seconds until Patrick approached him and told him that it was against the law for him to follow union people who were trying to organize. Though Patrick had not made any threatening gesture to Blakey, Blakey replied by saying that if Patrick hit him he would charge him with assault. Patrick went back to the table and told Jarvis that they might as well leave. Blakey then walked over to them and asked Patrick who he was. Patrick offered him a business card. Blakey looked at it and said that he did not want to dirty his hands. Blakey then went to the middle of Dag's and stood there for a minute. He bought a soft drink¹³ and stood there with it until Patrick and Jarvis left. As Patrick and Jarvis were driving out of the parking lot they saw Blakey leave Dag's and stand in Dag's parking lot talking to a clerical employee.

It is about 120 feet up a substantial grade from the Company's office to the entrance to Dag's parking lot and then about another 100 feet through the parking lot to the entrance of the restaurant. Blakey made that trip on crutches with his broken leg in a cast.

B. Analysis and Conclusions

1. The interrogation and threats

On or about February 25, 1980, Supervisor Thom asked employee Schindler whether Schindler was trying to get people signed up for the Union. On or about February 26, Thom, in the presence of employee Jarvis, asked Schindler who was passing out union authorization cards. On or about March 3, Thom asked Jarvis whether Jarvis was involved in union organizing meetings.

Particularly in the light of the other unfair labor practices found below, those interrogations were coercive and interfered with the employees' Section 7 rights in violation of Section 8(a)(1) of the Act.¹⁴

In the course of his interrogation of Jarvis on March 3, 1980, Supervisor Thom told Jarvis that if Company President Blakey found out that he (Jarvis) was involved in union organizing activities he would be fired. Blakey had threatened to fire Jarvis if Jarvis engaged in union activity and that threat was passed on to Jarvis by Supervisor Thom. The threat was violative of Section 8(a)(1) of the Act.

¹³ There are several soft drink machines located in the Company's plant.

¹⁴ *PPG Industries, Inc., Lexington Plant, Fiber Glass Division*, 251 NLRB 1146 (1980); *Pacific Intermountain Express*, 250 NLRB 1451 (1980).

2. The Company's refusal to allow Union Representative Bernosky to visit the machine shop

At the close of the grievance meeting on February 9, 1980, union business representative Bernosky indicated to Company President Blakey that he (Bernosky) wanted to go to the machine shop to talk to the people there. Blakey refused to allow Bernosky to go to the machine shop but he agreed to allow Bernosky to talk to the employees at another location in the plant. Bernosky then did talk to those employees. Bernosky had been allowed to visit the machine shop in the past and Blakey's asserted reasons for not wanting him to go to the machine shop at that time were spurious. However, I do not believe that this incident is significant enough to involve a violation of law. Bernosky wanted to talk to the employees and he was permitted to do so. Bernosky did not tell Blakey that it was necessary for him to go to the machine shop in order to process a grievance. With regard to unilateral changes affecting the bargaining unit, there is no refusal-to-bargain allegation in the complaint.

3. The surveillance

On March 17 and again on March 19, 1980, Daughters and Jarvis distributed union handbills outside the Company's plant. They told a number of employees that anyone who wanted a ride to the union meeting on March 20 could get one at Dag's restaurant. Company President Blakey was present when the handbilling took place. Though there is no direct evidence that Blakey overheard any remarks about the ride to the meeting, company representatives did make a concerted effort to keep abreast of what was happening concerning union matters by engaging in unlawful interrogation.

After work on March 20 employee Schindler went to Dag's to get a ride to the meeting. Blakey walked to Dag's behind Schindler and because of that Schindler did not accept the ride. Under all the circumstances an inference is warranted that Blakey was involved in surveillance of his employees' union activities at Dag's. Considering the fact that he had a broken leg and was walking on crutches it is most unlikely that he would have taken the long uphill trip to Dag's simply to buy a soft drink that he could have obtained in his own plant. His conduct in standing in Dag's until Patrick and Jarvis left also indicated that he was concerned with union activity rather than beverages. In a similar vein his remark to Patrick that he did not want to dirty his hands by looking at Patrick's union business card indicated that his concern was for other than refreshment. The Company has not come forth with any evidence to rebut the inference that Blakey was engaged in surveillance of union activity. I find that the Company violated Section 8(a)(1) by engaging in surveillance of its employees' union activities.

4. The removal of Daughters from the machine shop

Daughters, through his union representative, processed a grievance against the Company in which he contended that he was not receiving the pay and benefits called for

under a collective-bargaining agreement. The processing of such a grievance is a protected activity under the Act. At the grievance meeting on February 19, 1980, Company President Blakey told Daughters that he (Daughters) was going to be taken out of the machine shop because the grievance was being pressed. The next day Supervisor Corraline transferred Daughters from the machine shop to the dusty, monotonous job of sanding sonar cases. Corraline told Daughters that he was being transferred because of the grievance meeting. By transferring Daughters to a less desirable job because he processed a grievance under a collective-bargaining agreement, the Company violated Section 8(a)(1) of the Act.

5. The discharge of Daughters

As indicated by Supervisor Corraline's written evaluation of Daughters, which was given a month before the discharge, the Company considered Daughters to be a very good and competent employee. Daughters' difficulties arose only after he filed his grievance and joined the Union. Blakey was extremely antagonistic toward Daughters because Daughters processed the grievance and that antagonism manifested itself in the Company's unlawful transfer of Daughters out of the machine shop. Blakey also knew that Daughters was a member of the Union. On or about February 12, 1980, Blakey interrogated Daughters concerning his union membership and Daughters acknowledged that he was a member. Once Blakey transferred Daughters out of the machine shop Daughters was, in Blakey's eyes, a union member in the nonunion sector of the plant.¹⁵ The Company's virulent hostility toward unionization in the nonunion sector of the plant was manifested by the unlawful interrogation, threats, and surveillance described above.¹⁶ Two weeks after Daughters acknowledged to Blakey that he was a union member Daughters was discharged. The discharge took place in the middle of a payroll period when there was a substantial amount of work still to be done.

The General Counsel has made out a *prima facie* showing sufficient to support the inference that the Company discharged Daughters because of his union activity.¹⁷ The Company has offered no evidence to rebut that *prima facie* showing. I therefore find that the Company violated Section 8(a)(3) and (1) of the Act by discharging Daughters because of his union activity.

¹⁵ It is likely that the Company learned of Daughters' other union activities. Daughters was a key organizer for the Union and held meetings at his home. When, as here, a company interrogates employees about union activities and engages in surveillance of such activities it is not unreasonable to assume that it obtains some information in that regard. However the Company's subsequent conduct toward Daughters is explainable in terms of the Company's animosity toward union members in the nonorganized sector of the plant even if the Company did not know that Daughters was a key union activist.

¹⁶ In addition, as is set forth below in the discussion of Jarvis' discharge, Company President Blakey told Supervisor Thom that he (Blakey) wanted to fire a union activist and Thom told that employee that he would be fired if Blakey found out that he had engaged in union activity.

¹⁷ See *Wright Line, a Division of Wright Line, Inc.*, 251 NLRB 1083 (1980); *Weather Tamer, Inc. and Tuskegee Garment Corporation*, 253 NLRB 293 (1980).

6. The discharge of Jarvis

Jarvis worked for the Company for over a year. He received pay raises and an overall evaluation of "outstanding."

Jarvis attended union meetings at Daughters' house and passed out union authorization cards during lunch breaks and after work.

As is set forth above, the Company harbored a virulent animosity against employees who engaged in union activities and demonstrated that animosity through unlawful interrogation, threats, and surveillance as well as by the unlawful transfer and discharge of Daughters.

Company President Blakey suspected that Jarvis was involved in the union organizing. He told Supervisor Thom that he (Blakey) wanted to fire Jarvis because he felt that Jarvis was involved in the union organizing. Thom replied that he did not think Jarvis was involved, and the discharge did not take place at that time.

On March 3, 1980, Thom told Jarvis that Blakey had heard that he (Jarvis) was involved in organizing meetings and he asked Jarvis whether it was true. Jarvis neither confirmed nor denied it and simply said that they should not discuss it. Thom then said that if Blakey found out that it was true Jarvis would be fired. The same day Jarvis was discharged. At the terminal interview Blakey accused Jarvis of writing graffiti and then told him he was discharged for falsifying his application for work. However, no evidence was offered to prove that those accusations were true or that Blakey believed them to be true.

The General Counsel has made a *prima facie* showing sufficient to support the inference that the Company discharged Jarvis because of his union activity. The Company has offered no evidence to rebut that inference. I find that the Company violated Section 8(a)(3) and (1) of the Act by discharging Jarvis because of his union activity.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Company set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Company discharged Daughters and Jarvis in violation of Section 8(a)(3) and (1) of the Act, I recommend that the Company be ordered to offer them reinstatement and to make them whole for any loss of wages and other benefits resulting from their discharges by payment to each of them of a sum of money equal to the amount he normally would have earned as

wages and other benefits from the date he was discharged to the date on which reinstatement is offered, less net earnings during that period. The amount of backpay shall be computed in the manner set forth in *F. W. Woolworth Company*, 90 NLRB 289 (1950), with interest thereon to be computed in the manner prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977).¹⁸

It is further recommended that the Company be ordered to preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due.

CONCLUSIONS OF LAW

1. The Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The Company violated Section 8(a)(1) of the Act by:

(a) Coercively interrogating employees about union activities.

(b) Threatening an employee with discharge because of his union activity.

(c) Engaging in surveillance of the union activities of its employees.

(d) Transferring an employee to a less desirable job because he processed a grievance.

4. The Company violated Section 8(a)(3) and (1) of the Act by discharging Daughters and Jarvis because of their union activity.

5. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

Upon the basis of the foregoing findings of fact and conclusions of law, and upon the entire record in this case, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER¹⁹

The Company, Western Marine Electronics, Inc., Seattle, Washington, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discharging or otherwise discriminating against any employee for engaging in activity on behalf of Inter-

national Association of Machinists and Aerospace Workers, Local Lodge No. 79, AFL-CIO.

(b) Coercively interrogating any employee about union activities.

(c) Threatening any employee with discharge because of his union activity.

(d) Engaging in surveillance of the union activities of any of its employees.

(e) Transferring any employee to a less desirable job because he processes a grievance.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:

(a) Offer John Daughters immediate and full reinstatement to his former job in the machine shop or, if that job no longer exists, to a substantially equivalent job, without prejudice to his seniority or other rights and privileges, and make him whole, with interest, for lost earnings in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Offer Bruce Jarvis immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent job, without prejudice to his seniority or other rights and privileges previously enjoyed, and make him whole, with interest, for lost earnings in the manner set forth in the section of this Decision entitled "The Remedy."

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due.

(d) Post at its Seattle, Washington, place of business copies of the attached notice marked "Appendix."²⁰ Copies of the notice, on forms provided by the Regional Director for Region 19, after being duly signed by its authorized representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by it to ensure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 19, in writing, within 20 days from the date of this Order, what steps it has taken to comply herewith.

¹⁸ See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

¹⁹ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

²⁰ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."